

**Testimony of Chickasaw Nation Governor Bill Anoatubby**  
**April 17, 2002**

Mr. Chairman and members of the Committee:

I am Bill Anoatubby, Governor of the Chickasaw Nation. It is a pleasure for me to appear before this committee and I appreciate your inviting me to do so. As you will be hearing (or have already heard) from the other tribal leaders, I will keep my remarks brief.

This committee is presented with the opportunity to begin to right an injustice on behalf of the United States that has endured for almost a century. We are here before you after an almost 40-year struggle in dozens of courts, including the U.S. Supreme Court; however, it has been made abundantly clear to all who have visited this situation that it can only be resolved by Congress. We seek your help.

Please allow me to briefly outline the history of this matter that brings us to where we are today. In the early 19th century, these three tribes entered into treaties with the United States Government to give up millions of acres of land in the east and to remove westward to allow for growth and expansion of the country's frontiers. In exchange, we were conveyed lands in what is now Eastern Oklahoma. For the remainder of the century, the tribes had complete governance over their respective territories and domains; however, subsequent actions by Congress, particularly the allotment process under the Dawes Act, reduced their domains to a little more than 100,000 acres. Those lands include the bed of the Arkansas River from its confluence with the Canadian River eastward to the Arkansas-Oklahoma state line, approximately 65 miles.

It has been determined through various court decisions and agreements that from Muskogee, Oklahoma to the confluence of the Canadian, Cherokee Nation owns the entire riverbed. From the Canadian confluence down to the Arkansas State Line, the Cherokee Nation owns the north half of the riverbed and the Choctaw and Chickasaw nations own the south half. Due to meanderings of the river over the past century, the wet bed and dry lands of the bed comprise over 25,000 acres of land, the title to which is held by the United States in Trust for the three tribes.

The tribes' problems began when Oklahoma became a state in 1907. Relying on an erroneous opinion in 1908 by the solicitor, the U.S. Department of the Interior incorrectly assumed that Oklahoma became the owner of the riverbed. In 1946, the government began construction of the Kerr-McClellan Navigation System on the river. Because of the misplaced belief that the state of Oklahoma owned the riverbed, the tribes were neither consulted nor compensated for the taking of thousands of acres and extensive damage to their property.

In 1970, the U.S. Supreme Court ruled that the title to the riverbed was in the tribes when Oklahoma became a state and, therefore, it could not have passed to the state under the Equal-Footing Doctrine. Thus, the tribes continued to own the riverbed as they did in 1907 and 1946, and as they do today.

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For 60 years prior to 1970, the Bureau of Indian Affairs did not exercise its trust responsibility to protect and exploit these tribal lands. As a result, adjacent landowners began to occupy the portions of riverbed that were dry land and continue to be in possession today depriving the tribes of the use of their

dry surface lands. Mineral interests either went undeveloped or were exploited by others claiming to own them. Millions of tons of sand and gravel were mined from the riverbed and used to construct the structures required in the navigation system without compensation to the tribes. The tribes have lost tens of millions of dollars for which they would have otherwise been compensated but for the mistaken belief by the government that they were not the rightful owners.

In 1989, the tribes brought suit in the Claims Court seeking damages for the failure of their Trustee to properly manage this property. That litigation is still pending but would be dismissed if this settlement is approved.

For 20 years after the 1970 decision, the boundaries of the tribal lands went undetermined. Finally, in 1990, the Bureau of Land Management began and has completed a cadastral survey of the riverbed lands. However, due to the fact that the boundaries were created by river meanderings, the title to the lands remained in question until the survey was completed about 1995. During this 25-year period, it was difficult to properly and completely exploit the oil and gas interests due to the title situation. Thus, income was not received that would otherwise have been paid to the tribes, contributing to the tens of millions of dollars already lost.

The tribes have spent countless hours over the past 30 years and hundreds of thousands of dollars calculating their losses, meeting with various government officials and litigating in the courts. Our experts and advisors have meticulously studied the records and made estimates and appraisals to determine those losses and evaluating our riverbed property. You have or will have that information before you.

As I said earlier, the government and the tribes can only extricate themselves from the quagmire they find themselves and achieve justice with your help. The legislation you are considering will benefit everyone concerned. The tribes will finally be compensated for the long-standing damages they have endured because of the circumstances that bring us here. The litigation in the U.S. Court of Claims will end. The tribes will disclaim their interest to the thousands of acres of land occupied by others who thought they were the rightful owners. For this, the tribes would also be fairly and justly compensated. The government will be relieved of its Trust responsibility to remove the thousands of third-party occupants which could take up to 20 years to litigate at a cost of tens of millions of dollars. But, just as importantly, with the passage and implementation of this legislation, this tragic saga would finally come to an end.

Thank you very much for having me here today. I respectfully ask you to approve H.R. 3534.